

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA

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JOHN M. WIGGINS, D/B/A)	2006 OCT 25 A 11:08
Earthscapes by Wiggins)	RECEIVED CLERK'S OFFICE MIDDLE DISTRICT OF ALA.
Also known herein for Miller)	
Act Relief only, as the)	
United States of America,)	
by and for John M. Wiggins,)	2:06-cv-830-ID-SWR
D/B/A Earthscapes by Wiggins)	
)	
Plaintiff,)	
)	
v.)	
)	
Dawson Building Contractors,)	
Inc., and St. Paul Travelers)	
Insurance Companies, Inc.)	
)	
Defendants)	

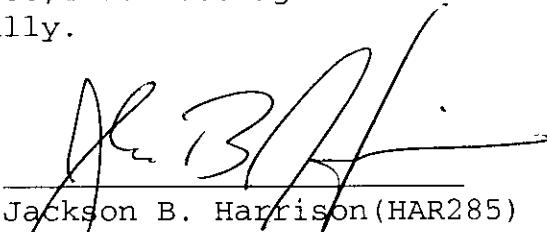
MOTION FOR JUDGMENT OF DEFAULT

COMES NOW Plaintiff John M. Wiggins, and respectfully moves this Honorable Court to enter a Judgment of Default against the Defendants and in favor of the Plaintiff. In support of his motion, Plaintiff states as follows:

1. Plaintiff filed this lawsuit on 9/15/06.
2. Plaintiff perfected service of process on the Defendant Dawson Building Contractors, Inc. by and through this Court through sending the Summons and Complaint certified mail on 9/19/06, and Amanda Coker, by and behalf of Dawson Building Contractors, Inc., signed service of Summons and Complaint on 9/20/06.
3. Plaintiff perfected service of process on the Defendant St. Paul Travelers Insurance Companies, Inc. by and through this Court through sending the Summons and Complaint certified mail on 9/19/06, and the Summons and Complaint was signed by St. Paul Travelers Insurance Companies, Inc. on 9/25/06.

4. Defendant Dawson Building Contractors, Inc. failed to file a response to the Complaint which was due on 10/10/06.
5. Defendant St. Paul Travelers Insurance Companies, Inc. failed to file a response to the Complaint which was due on 10/16/06.

WHEREFORE, the Defendants having failed to properly respond to perfected service of Summons and Complaint, Plaintiff, in accordance with Rule 55 of the Federal Rules of Civil Procedure, respectfully pray this Court to enter a Judgment of Default in its favor for \$766,414.12.00 against the Defendants, jointly and severally.



Jackson B. Harrison(HAR285)
Attorney for the Plaintiff
John M. Wiggins D/B/A
Earthscapes by Wiggins

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AFFIDAVIT

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Before me, the undersigned, personally appeared ^{OCT 25 A 11:08} John M. Wiggins, who being known to me and by me first duly sworn, deposes and says as follows:

My name is John M. Wiggins. I present this affidavit in the United States District Court for the Middle District of Alabama to serve as evidence of the amount owed to me by Dawson Building Contractors, Inc. (Dawson) and St. Paul Travelers Insurance Companies, Inc. (St. Paul). I, John M. Wiggins, on March 10th, 2004 entered into a subcontract (Contract) with Dawson, who was bonded with St. Paul as per the general and subcontract, to provide landscaping work, labor and materials for the project Victor Tulane Courts (Victor). My compensation under the contract was originally \$81,835.00 and later amended to be a total of \$143,651.15. I completed my duties under the Contract on May 27, 2006. I sent Dawson three (3) requests for payments totaling \$27,116.87 which would have been the final payments owed to me by Dawson. Dawson refused to pay me the contracted for monies, \$27,116.87. Further, on August 25th, 2005 Dawson fraudulently prepared and presented to me a pay request totaling \$20,321.79. I relied on this fraudulent act by Dawson and it damaged me in the amount of \$20,321.79.

The total amount of damages caused by the Defendants that I have suffered and ask this Court to enter a Judgment of Default is as follows:

Compensatory Damages

- | | | |
|----|---------------------------------|-------------|
| 1. | Miller Act/ Breach of Contract- | \$27,116.87 |
|----|---------------------------------|-------------|

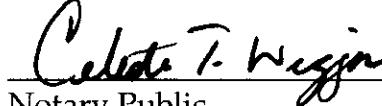
2.	Fraud-	\$20,321.79
<u>Punitive Damages</u>		
3.	Fraud-	\$500,000.00
<u>Reasonable Attorney Fees</u>		
4.	40% of all monies received-	\$218,975.46
	Total	<u>\$766,414.12</u>

Further, deponent sayth not.



John M. Wiggins, Affiant

Sworn to and subscribed before me on this the 24th day of October, 2006.



Celeste T. Wiggins
Notary Public
My Commission Expires: 8-1-10